



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,271	04/25/2001	Melvyn C Bale	36-1441	7755

23117 7590 01/26/2005

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

EXAMINER

PATEL, ASHOKKUMAR B

ART UNIT PAPER NUMBER

2154

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant(s)

09/830,271

Applicant(s)

BALE ET AL.

Examiner

Ashok B. Patel

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-17 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-17 are subject to examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 rejection of claims 1-6 is withdrawn based on the response provided by the Applicant.

Response to Arguments

3. Applicant's arguments filed October 21, 2004 have been fully considered but they are not persuasive for the following reasons:

First of all Examiner would like to state the problem that the reference Gallant solving, as stated in the reference, col. 2, lines 3-6, "Even though the overall amount of communication traffic within the system is reduced, communication traffic within the network in the Allen et al. system is not minimized.." As explained by the Applicant on page 10 of the current amendment "Nothing in Gallant considers what would happen if several users simultaneously were seeking to use a control interface of the messaging platform, or what mechanisms could be implemented to ensure that the control interface of the messaging platform was not overloaded in such circumstances." The reference Gallant is effervescent in elucidating what the Applicant considers as being not addressed by the reference. At the same time the Applicant reveals that the control interface is "of the messaging platform" and implemented "mechanism" ensures that the control interface of the messaging platform was not overloaded, which are the reference Gallant's teachings, "communication traffic within the network system is minimized" by teaching "To minimize traffic on the network, the present invention provides an

Art Unit: 2154

optimized mode of operation that can be selected by the subscriber, preprogrammed into the PCD 118 or specified statistically or dynamically by the VMS 104.", col. 5, lines 12-15.

In response to Applicant's arguments that "Gallant et al. :466 offers absolutely no suggestion of any kind for controlling the load on the control interface to the messaging platform itself in the manner now being claimed.", and "In particular, Gallant does not consider overloading the control interface of the messaging platform due to a plurality of service providers having mailboxes stored on the messaging platform seeking to access the messaging platform in the manner of the applicant's claimed invention." as stated above, the reference Gallant does teach for controlling the load on the control interface to the messaging platform.

In response to Applicant's arguments that "Gallant only considers notifications from the VMS to the subscriber, not controlling overload conditions resulting from parties accessing the control interface (see applicant's specification on page 4, lines 16 to 18)." The reference teaches "'To minimize traffic on the network, the present invention provides an optimized mode of operation that can be selected by the subscriber, preprogrammed into the PCD 118 or specified statistically or dynamically by the VMS 104.", col. 5, lines 12-15.

In response to Applicant's arguments that "the applicant's invention in which the control interface of the messaging platform supporting the voicemail system is controlled to ensure it is not overloaded by too many users simultaneously accessing the control interface of the messaging platform", In response to applicant's argument

Art Unit: 2154

that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., control interface of the messaging platform supporting the voicemail system is controlled to ensure it is not overloaded by too many users simultaneously accessing the control interface of the messaging platform) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated Gallant et al. (US 5, 802, 466).

Referring to claim 1,

The reference teaches a messaging platform (Fig.1, element 104) including:

a) a message store arranged to receive message data and to store said message data for subsequent retrieval, (Fig.1, element 104 and 112, col.4, lines 53-55)

Art Unit: 2154

b) a control interface arranged to control communication of control signals between the messaging platform and a plurality of service providers; (col. 5, lines 12-15) and

c) an overload controller (Fig.1, element 104) responsive to an overload condition of said control interface and arranged, in response to the said overload condition, to limit loading of the control interface.(col.4, lines 55-67 and col.5, lines 1-41)

Referring to claim 2,

The reference teaches a messaging platform as in claim 1, wherein:

Said control interface is arranged to receive control requests instructing transactions on the messaging platform, (col.6, lines 58-62)and

the overload controller includes means for denying at least some of the control requests in response to the overload condition. (col.5, lines 36-41," VMS 104 sends a mailbox full notification to PCD 118 so that the subscriber can observe that mailbox 112 cannot receive any additional messages." and col.7, lines 27-35)

Referring to claim 3,

The reference teaches a platform as in claim 2, in which: the overload controller programmed with criteria for applying different classes of service to control requests received at the control interface and the overload controller is arranged, in response to an overload condition on the platform, selectively to deny control requests depending on a class of service assigned in accordance with the said criteria to the control request.(col.5, lines 12-67 and col.6, lines 1-32, col.7, lines 27-35)

Art Unit: 2154

Referring to claims 4, 5 and 6,

The reference teaches a platform as in claim 3, in which the criteria apply a class of service selected depending on the identity of a service provider originating the said control requests, and in which the criteria apply a class of service selected depending on the identity of a subscriber mailbox to which the control request applies, and in which the criteria apply different service classes depending on the transaction requested by the control request. (col.6, lines 58-67 and col.7, lines 1-67 and col.8, lines 1-10).

Referring to claim 7,

The reference teaches a messaging system comprising:

a service platform running a messaging service application; (Fig.1, element 106 "PCN" consists of MSCs, BSCs, HLR and PSN) and

a messaging platform as in claim 1 connected to the service platform via said control interface, and arranged to receive control requests from the service platform via the control interface. (Fig.1, element 104 9 inherent interface which programs mode of operation statically or dynamically, col.5, lines 12-15, or element 118 "PCD" with Mode select switch, col.6, lines 59-62)

Referring to claim 8,

The reference teaches a messaging system as in claim 7, in which the service platform is remote from the messaging platform. (Fig.1, elements 106 and 104)

Referring to claim 9,

Art Unit: 2154

Claim 9 is a claim to a communications network including a messaging platform according to claim 1. Therefore, claim 9 is rejected for the reasons set forth for claim 1.

Referring to claim 10,

The reference teaches a method of operating a messaging platform including:

a) storing message data on the messaging platform via a control interface arranged to control communication of control signals between the messaging platform and a plurality of service providers; and

b) subsequently outputting message data from the platform via said control interface, thereby allowing retrieval of a corresponding message; (Fig.1, element 104 and 112, col.4, lines 53-55)

c) detecting an overload condition on the control interface and in response to the overload condition limiting loading of the control interface. (col.4, lines 55-67 and col.5, lines 1-41).

Referring to claim 11,

The reference teaches a method as in claim 10, further comprising

d) receiving at the control interface control requests instructing transaction on the messaging platform, (col.6, lines 58-62)

and in which the step of limiting loading of the control interface includes denying at least some of the control requests. (col.5, lines 36-41," VMS 104 sends a mailbox full notification to PCD 118 so that the subscriber can observe that mailbox 112 cannot receive any additional messages." And col.7, lines 27-35)

Referring to claim 12,

Art Unit: 2154

The reference teaches a method as in claim 11, including applying different classes of service to the control requests, and in response to the overload condition selectively denying some only of the control requests depending on the class of service applied to the control requests. (col.5, lines 12-67 and col.6, lines 1-32, col.7, lines 27-35)

Referring to claims 13, 14 and 15,

The reference teaches a method as in claim 12, including applying different classes of service to control requests depending on the identity of an originating service Provider, and including applying different classes of service to control requests depending on identities of customer mailboxes to which the control requests, and including applying different classes of service to control requests depending on the transaction requested by the control request. (col.6, lines 58-67 and col.7, lines 1-67 and col.8, lines 1-10).

Referring to claim 16,

The reference teaches a method as in claim 15, in which the messaging platform includes a plurality of mailboxes containing message data (Fig.1, element 112), each mailbox being switchable between an open state, in which message data may be written to or read from the mailbox, and a closed state, and in which the step of limiting loading includes allowing requests for the closing of a mailbox and denying requests for the opening of a mailbox. (col.7, lines 28-35, opening a mailbox indicates that opening a mailbox for incoming mail after deleting some of the mails which limits the load).

Referring to claim 17,

Claim 17 is a claim to a communications network including a messaging system as in claim 7. Therefore, claim 17 is rejected for the reasons set forth for claim 7.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (571) 272-3972. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2154

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abp

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100